

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**MEMORANDUM IN SUPPORT OF DEFENDANTS' MOTION TO STRIKE  
PORTIONS OF PLAINTIFFS' OPPOSITION BRIEF FOR  
NONCOMPLIANCE WITH THE LOCAL RULES**

Pursuant to Local Rule 7(F), Defendants Lieutenant Michael Alston, Lieutenant Brian Corrigan, Captain Martin Harrison, and Captain William Blackwell, by counsel (collectively, “the Officers”) submit this Memorandum in support of their Motion to strike the portions of the Response Brief in Opposition to Defendants’ Motion to Dismiss submitted by Plaintiffs Wilbur Ensley, Covey Andrews, Shamar Archer, Deunte Humphries, and Jamar Gilliam (collectively, “Plaintiffs”) for exceeding the page limit provided in Local Rule 7(F)(3) and states as follows:

1. Local Rule 7(F)(3) provides that opening and responsive briefs “shall not exceed thirty (30) 8-1/2 inch x 11 inch pages double-spaced” unless a party demonstrates good cause in advance of filing.

2. Plaintiffs' Response brief purports to be thirty pages, but incorporates by reference considerable portions of Plaintiffs' Response in Opposition to Defendant Jason Norton's Motion to Dismiss. *See* Pls. Resp. Br. at 16 (referencing Opp. to Norton's Mot. to Dismiss at 22-27); at 17 (referencing Opp. to Norton's Mot. to Dismiss at 14-16); and at 27 (referencing Opp. to Norton's Mot. to Dismiss at 2-12). With the benefit of these additional

pages, Plaintiffs' response encompasses **forty-seven pages** – seventeen pages beyond the limit permitted by the Rule.

3. The Officers have been prejudiced by Plaintiffs' attempted "end run" around the Rule, because the pages incorporated by reference raise substantive arguments, which must be addressed by the Officers within the page limits of their Reply Brief.

4. Plaintiffs did not seek leave to file a response brief in excess of the page limitation, and no such leave was granted. Nor have Plaintiffs made any showing of good cause demonstrating their inability to file a Response brief within the thirty page limitation set forth in Local Rule 7(F).

5. The Officers respectfully request as a remedy that the Court strike the portions of Plaintiffs' Opposition Brief that purport to incorporate portions of Plaintiffs' Opposition to Defendant Norton's Motion to Dismiss, thereby bringing Plaintiffs' brief into compliance with Local Rule 7(F)(3). *See, e.g., South Carolina v. United States*, Civil Action No. 1:16-cv-00391-JMC, 2017 U.S. Dist. LEXIS 16990, at \*16 n.9 (D.S.C. Feb. 7, 2017) (noting that incorporation by "profligately incorporating by reference swathes of arguments from previously filed memoranda" is an "abuse [of] the page limitations [rule]" that justifies striking the "material in excess of the page limitations set by the Local Rules").

WHEREFORE, the Officers respectfully request that the Court strike the references in Plaintiffs' brief purporting to incorporate portions of Plaintiffs' Opposition to Defendant Norton's Motion to Dismiss.

Dated: May 25, 2017

**MICHAEL ALSTON, BRIAN CORRIGAN,  
MARTIN HARRISON, and  
WILLIAM BLACKWELL**

By: /s/ Stephen C. Piepgrass

Ashley L. Taylor, Jr. (Va. Bar No. 36521)

Stephen C. Piepgrass (Va. Bar No. 71361)

Brooke K. Conkle (Va. Bar No. 87413)

TROUTMAN SANDERS LLP

1001 Haxall Point, P.O. Box 1122

Richmond, Virginia 23219

Telephone: (804) 697-1286

Facsimile: (804) 697-1339

E-mail: ashley.taylor@troutmansanders.com

E-mail: stephen.piepgrass@troutmansanders.com

E-mail: brooke.conkle@troutmansanders.com

*Counsel for Michael Alston, Brian Corrigan,  
Martin Harrison, and William Blackwell*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 25th day of May, 2017, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

**Counsel for Plaintiffs Wilbur Ensley, Covey Andrews, Shamar Archer, Deunte Humphries, and Jamar Gilliam**

Mark J. Krudys  
The Krudys Law Firm, PLC  
SunTrust Center  
919 E. Main Street, Suite 2020  
Richmond, VA 23219  
Phone: (804) 774-7950  
Fax: (804) 381-4458  
Email: mkrudys@krudys.com

John Frederick Preis  
7719 Rock Creek Road  
Henrico, VA 23229  
Phone: (804) 289-8682  
Email: jpreis@richmond.edu

Amy L. Austin  
The Law Office of Amy L. Austin, PLLC  
101 Shockoe Slip, Suite M  
Richmond, VA 23219  
Phone: (804) 343-1900  
Fax: (804) 343-1901  
Email: amyaustinlawyer@gmail.com

**Counsel for Defendant City of Richmond**

Stephen Hall  
Richard E. Hill, Jr.  
Office of the City Attorney  
900 E. Broad St.  
Richmond, VA 23219  
Phone: (804) 646-7946  
Email: Stephen.Hall@richmondgov.com  
Email: Richard.HillJr@richmondgov.com

**Counsel for Defendant Jason Norton**

David P. Corrigan  
M. Scott Fisher, Jr.  
Harman Claytor Corrigan & Wellman  
4951 Lake Brook Drive, Suite 100  
Glen Allen, VA 23060-9272  
Phone: (804) 762-8017  
Email: [dcorrihan@hccw.com](mailto:dcorrihan@hccw.com)  
Email: [sfisher@hccwcom](mailto:sfisher@hccwcom)

**Counsel for Defendant Bryan T. Norwood**

Jonathan P. Harmon  
Brian D. Schmalzbach  
McGuireWoods  
Gateway Plaza  
800 E. Canal St.  
Richmond, VA 23219-3916  
Phone: (804) 775-4712  
Email: [jharmon@mcguirewoods.com](mailto:jharmon@mcguirewoods.com)  
Email: [bschmalzbach@mcguirewoods.com](mailto:bschmalzbach@mcguirewoods.com)

**Counsel for Defendants Christopher Gleason, Charles Sipple, and Roger Russell**

D. Cameron Beck, Jr.  
C. Walker Terry  
McCandlish Holton Morris  
1111 E. Main Street, Suite 2100  
P.O. Box 796  
Richmond, VA 23218-0796  
Phone: (804) 344-6322  
Email: [cbeck@lawmh.com](mailto:cbeck@lawmh.com)  
Email: [wterry@lawmh.com](mailto:wterry@lawmh.com)

/s/ Stephen C. Piepgrass

Stephen C. Piepgrass (Va. Bar No. 71361)  
TROUTMAN SANDERS LLP  
1001 Haxall Point  
Richmond, Virginia 23219  
Telephone: (804) 697-1286  
Facsimile: (804) 697-1339  
E-mail: [stephen.piepgrass@troutmansanders.com](mailto:stephen.piepgrass@troutmansanders.com)